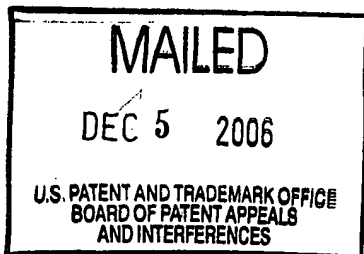


UNITED STATES PATENT AND TRADEMARK OFFICE



BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DENISE MARIE GENTY,
SHAWN PATRICK MULLEN, JOHNNY MENG-HAN SHIEH,
And
JAMES STANLEY TESAURO

Application 09/981,878

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on November 6, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being electronically returned to the examiner. The matters requiring attention prior to docketing are identified below:

An examination of the Image File Wrapper (IFW) reveals that an Appeal Brief was filed on February 3, 2006.

37 CFR § 41.37(c)(1)(v) (2005) reads as follows:

(c)(1) The brief shall contain the following items under appropriate headings and in the order indicated in paragraphs (c)(1)(i) through (c)(1)(x) of this section, except that a brief filed by an appellant who is not represented by a registered practitioner need only substantially comply with paragraphs (c)(1)(i) through (c)(1)(iv) and (c)(1)(vii) through (c)(1)(x) of this section:

....

(v) *Summary of claimed subject matter.* A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters. For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c)(1)(vii) of this section, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

The “Summary of claimed subject matter” appearing on page 3 of the Appeal Brief filed February 3, 2006 is deficient because it does not map the independent claims to the specification. Correction is required.

In addition, it is noted that the initial Appeal Brief filed October 11, 2005 states that “Deposit Account 09-0447 [should be charged] the sum of \$500.00.” The Patent and Trademark Office records reflect that this fee has not been charged.

Accordingly, it is

ORDERED that the application is returned to the Examiner:

- 1) for notification to appellants to submit a substitute Appeal Brief which corrects the "Summary of Claimed Subject Matter";
- 2) for consideration of the substitute Appeal Brief;
- 3) for the \$500 Appeal Brief fee to be charged to appellants' Deposit Account 09-0447; and
- 4) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: *GLENN for Dale Shaw*
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